

REMARKS

Applicants appreciate the Examiner's thorough consideration provided in the present application. Claims 1-8 are currently pending in the instant application. Claims 1-4 have been amended. Claim 1 is independent. Claims 9-17 have been cancelled. Reconsideration of the present application is earnestly solicited.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-6 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Prevost (U.S. Patent No. 5,958,527). This rejection is respectfully traversed.

Applicants submit that the prior art of record fails to teach or suggest each and every limitation of the unique combination of limitations of the claimed invention of claims 1-6. For example, the prior art of record fails to teach or suggest the limitation(s) of "*said infill layer including a nonmarking particulate rubberized material* which is distributed so as to prevent a ball from being marked when the same hits the synthetic grass playing surface." (emphasis added) Accordingly, this rejection should be withdrawn.

The Examiner alleges that Prevost teaches that the infield material may be resilient granules such as rubber, vermiculite, cork, foam plastic, or black or colored EPDM rubber. The Examiner further argues that the disclosure of the present application teaches using the same infield materials as suggested

by Prevost ('527). Applicants respectfully traverse this interpretation by the Examiner.

Rubber is not, by definition, a non-marking material. On the contrary, rubber normally contains a relatively large proportion of carbon black, which is known for its marking properties. Therefore, the fact that the Prevost reference ('527) suggests using resilient granules, including black or colored EPDM rubber, is not sufficient, in any way, to conclude that the Prevost reference ('527) teaches using non-marking rubber. As mentioned in the previous amendment, Applicants were not aware of the ball marking problems at the time of filing their U.S. Patent 5,958,527. The marking tendency of the granules was only observed later on. Therefore, the Prevost reference ('527) does not provide a solution to a problem that had not yet been recognized by the inventors.

It is also respectfully submitted that there is no suggestion at all in Prevost reference ('527) to recycle non-marking shoe soles in particulate infield material for synthetic grass playing surfaces, e.g., as recited in claim 3.

For there to be anticipation under 35 U.S.C. § 102, the reference must teach every aspect of the claimed invention, either explicitly or by implication. Any feature not directly taught must inherently be present. As the Prevost reference ('527) is silent as to the use of recycled shoe soles, the Examiner's rejection under § 102 is therefore clearly deficient and should be removed.

Remaining dependent claims 2 and 4 to 8 are patentable, at least for the reasons set forth above with respect to independent claim 1.

Claim Rejections Under 35 U.S.C. § 103

Claims 7-17 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Prevost (U.S. Patent No. 5,958,526). These rejections are respectfully traversed.

In light of the foregoing amendments to the claims, Applicants respectfully submit that these rejections have been obviated and/or rendered moot. As discussed in greater detail hereinabove with respect to claims 1-6, Applicants submit that the prior art of record fails to teach or suggest each and every limitation of the unique combination of elements of the claimed invention of claims 1-4. Accordingly, these rejections should be withdrawn

In accordance with the above discussion of the patents relied upon by the Examiner, Applicants respectfully submit that these documents, either in combination together or standing alone, fail to teach or suggest the invention as is set forth by the claims of the instant application.

Accordingly, reconsideration and withdrawal of the claim rejection are respectfully requested. Moreover, Applicants respectfully submit that the instant application is in a condition for allowance.

As to the dependent claims, Applicants respectfully submit that these claims are allowable due to their dependence upon an allowable independent claim, as well as for additional limitations provided by these claims.

CONCLUSION

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but rather to merely show the state-of-the-art, no further comments are necessary with respect thereto.

It is believed that a full and complete response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.

Attached hereto is a marked-up version of the changes made to the application by this Amendment.

In the event there are any matters remaining in this application, the Examiner is invited to contact Matthew T. Shanley, Registration No. 47,074 at (703) 205-8000 in the Washington, D.C. area.

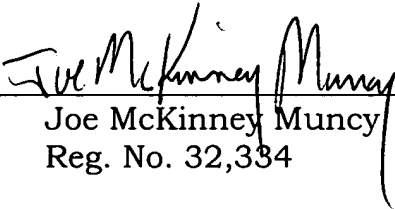
Applicants respectfully petition under the provisions of 37 C.F.R. § 1.136(a) and § 1.17 for a two-month extension of time in which to respond to the Examiner's Office Action. The Extension of Time Fee in the amount of **\$205.00** is attached hereto.

Appl. No.: 09/818,857
Art Unit: 1775

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 
Joe McKinney Muncy
Reg. No. 32,334


KM/MTS/cl

P. O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

Attachment: Version with Markings to Show Changes Made

MARKED-UP VERSION OF AMENDMENTS

IN THE CLAIMS:

Claims 9-17 have been cancelled.

The claims have been amended as follows:

1. (Amended) A synthetic grass playing surface comprising a backing, a plurality of synthetic ribbons extending upwardly from said backing, and an infill layer of particulate material placed among said synthetic ribbons, said infill layer including a non-marking particulate rubberized material which is distributed so as to prevent a ball from being marked when the same hits the synthetic grass playing surface.

2. (Amended) A synthetic grass playing surface as defined in claim 1, wherein said non-marking particulate rubberized material is at least partly resilient.

3. (Amended) A synthetic grass playing surface as defined in claim 2, wherein said non-marking particulate rubberized material is made from recycled non-marking rubber of the type used in the manufactured of soles for running shoes.

4. (Amended) A synthetic grass playing surface as defined in claim 1, wherein said non-marking particulate rubberized material is spread evenly among said ribbons to form a top covering layer for said infill layer at a distance below respective top ends of said ribbons.